

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.16656 of 2006

-
Date: 23.07.2007

Between:

B.Vasanthi.

.. PETITIONER

AND

The A.P.S.R.T.C. and another.

..RESPONDENTS

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.16656 of 2006

ORDER:

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Petitioner is the owner of a bus bearing No.AP-03-U-5787. It was hired to the A.P.S.R.T.C. The bus was involved in an accident on 04.07.2004, resulting in the death of a person. O.P.No.9 of 2005 was filed in the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalle. The A.P.S.R.T.C, the petitioner herein and the insurer of the bus were made as parties. Through its judgment, dated 09.06.2006, the Tribunal awarded a sum of Rs.1,13,000/- and directed that half of that amount shall be paid by the respondents herein and as regards the balance, the petitioner and the insurer

were held jointly and severally liable. In view of the same, the second respondent issued proceedings, dated 24.07.2006 requiring the petitioner to pay a sum of Rs.56,500/- with 7.5% interest i.e. the liability fastened upon the respondents in O.P.No.9 of 2005. It was also pointed out that in case, the petitioner fails to deposit that amount, it would be deducted from the bills payable to her. The petitioner challenges the said proceedings.

Sri K.Rathanga Pani Reddy, the learned counsel for the petitioner submits that basically, the decree passed by the Tribunal against the respondents herein cannot be sustained in law and instead of preferring an appeal against the decree in the O.P., the respondents are proceeding against the petitioner. He further submits that in view of the Judgments rendered by this Court in ***New India Assurance Co., Ltd., vs. V.Ramachandra Naidu***^[1] and ***K. Matura Bai vs. A.Shiva Nageswar Rao***^[2], the respondents cannot be held liable to pay the compensation in an O.P. filed under the Motor Vehicles Act against a bus hired by it, as long as it is insured. He contends that the respondents, if at all, have to proceed against the insurer of the bus, and cannot deduct the amount payable to the petitioner.

Learned Standing counsel for the respondents, on the other hand, submits that being owner of the bus, the petitioner, or the insurer of the bus, has to meet the liability and no exception can be taken to the impugned proceedings.

Some uncertainty prevailed as to the liability of the hirer of a vehicle, particularly, a State Road Transport undertaking, arising out of an accident involving a hired bus. The Hon'ble Supreme Court held in ***Rajasthan State Road Transport Corporation vs. Kailash Nath Kothari***^[3] that the hirer is equally responsible to pay the compensation. That, however, was under the Motor Vehicles Act, 1938. In ***New India Assurance Co., Ltd.***'s case (1 supra), this Court took note of the change in the definition of 'owner' under Section 2(30) of the Motor Vehicles Act, 1988 and observed that it is the owner or insurer of the bus, that are liable to pay the compensation. Almost to the same effect is the Judgment of this Court in ***K. Matura Bai***'s case (2 supra). Therefore, the respondents were naturally aggrieved by the decree in O.P.No.9 of 2005, through which the liability to the extent of half was fastened on them. That portion of the decree can certainly be assailed in an independent appeal by the

respondents or by way of cross objections, if any of the parties to the O.P. have preferred an appeal. That, however, is a different aspect. The impugned order cannot be found fault with, insofar as it required the petitioner to make good the liability fastened against the respondents. However, certain important developments, that have taken place, ever since the writ petition has been filed, need to be taken note of.

While admitting the writ petition on 09.10.2006, this Court stayed the operation of the impugned order. On the basis of the same, the petitioner has withdrawn all the bills. The contract itself has come to an end. It is also represented that the petitioner had sold the bus and a no objection certification is needed from the respondents for effecting the transfer of registration. As of now, no steps have been taken against the respondents, for recovery of the amount, on the strength of the decree in O.P.No.9 of 2005. The petitioner can be required to file a letter of indemnity and an undertaking with the respondents, as a condition precedent for issuance of no objection certificate.

For the foregoing reasons, the writ petition is disposed of, directing that the respondents shall issue a

no dues/no objection certificate to the petitioner, enabling her to transfer the registration of bus bearing No.AP-03-U-5787, on condition that she shall file an undertaking to the effect that it shall be her obligation to indemnify the respondents against any liability arising out of the decree in O.P.No.9 of 2005, if such liability subsists, even after the respondents pursue their remedy by way of appeal against the decree. There shall be no order as to costs.

23.07.2007

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[\[1\]](#) 2004(5) ALD 378

[\[2\]](#) 2006 ACJ 1341

[\[3\]](#) AIR 1997 SC 3444